

Council Communication

Department: Community Development Department	Resolution No. <u>08-287</u>	Meeting Date: <u>September 22, 2008</u>
<div style="text-align: center;">Subject/Title</div> <p>A resolution authorizing the Mayor to execute agreement with the University of Nebraska at Omaha on behalf of the Neighborhood Center.</p>		
<div style="text-align: center;">Background/Discussion</div> <p>The Neighborhood Center was established in 2001 with the mission to build capacity and strengthen neighborhoods throughout Douglas, Sarpy and Pottawattamie Counties. The Neighborhood Center implements this mission through: Training programs to help residents organize and operate effective neighborhood associations; Technical assistance and consultation services to individual neighborhood associations; Communication between neighborhoods, government officials and community initiatives; Research assistance; and Technology services for neighborhood associations needing computers and copies for newsletters and other neighborhood publications.</p> <p>With the assistance of the Iowa West Foundation (IWF), the Neighborhood Center is proposing to enhance efforts in Council Bluffs by establishing a larger presence in the community and to undertake a five year neighborhood organization and capacity building effort. Recognizing that the success of these efforts will be dependent on the support of the community including the cooperation and collaboration of the City of Council Bluffs, the Neighborhood Center is now requesting an agreement with the City. If approved, the agreement would commit funding of \$20,000 annually over a five year period being in FY 08-09 and ending FY 12-13.</p>		
<div style="text-align: center;">Recommendation</div> <p>Approval of the resolution.</p>		
Submitted by Donald Gross, Community Development Department		

RESOLUTION NO 08-287

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AGREEMENT
BETWEEN THE CITY OF COUNCIL BLUFFS AND THE UNIVERSITY OF
NEBRASKA AT OMAHA ON BEHALF OF THE NEIGHBORHOOD CENTER.**

WHEREAS, said agreement shall be in effect from July 1, 2008 through June 30, 2013, and shall provide \$20,000 annually for the payment of salary, benefits and project costs incurred by the Neighborhood Center; and

WHEREAS, Neighborhood Center shall establish a Council Bluffs office and undertake a five year effort to development neighborhood organizations within the community; and

WHEREAS, the plan of action to be funded shall focus on the development of neighborhood organizations, enhancing organizational capacity of such organizations, stimulating community development, and improving the quality of life in Council Bluffs; and

WHEREAS, the City Council finds it would be in the best interest of the City to enter an agreement and to support the Neighborhood Center.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

That the City Council hereby authorizes the Mayor to execute agreement between the City of Council Bluffs and the University of Nebraska at Omaha on behalf of the Neighborhood Center.

ADOPTED

AND

APPROVED: September 22, 2008

Thomas P. Hanafan, Mayor

ATTEST:

Judith H. Ridgeley, City Clerk

**AGREEMENT
BETWEEN
CITY OF COUNCIL BLUFFS, IOWA
AND
BOARD OF REGENTS OF THE UNIVERSITY OF NEBRASKA
d/b/a UNIVERSITY OF NEBRASKA AT OMAHA**

This Agreement is made and entered into this _____ day of _____, 2008 and sets forth the terms between the City of Council Bluffs, Iowa, a political subdivision of the State of Iowa (City), and the Board of Regents of the University of Nebraska d/b/a University of Nebraska at Omaha on behalf of the Neighborhood Center of Council Bluffs (UNO), a nonprofit public educational institution of the State of Nebraska.

- 1. Term.** This Agreement shall become effective July 1, 2008, and shall remain in effect through June 30, 2013 and may be extended by mutual agreement of the parties.
- 2. Purpose.** The purpose of this Agreement is to establish the terms and conditions of the relationship between the City and UNO and for such purposes as are outlined in the Statement of Work included as Attachment A.
- 3. Compensation.** The City shall pay to UNO, as a grant, the total sum of \$100,000 from July 1, 2008 through June 30, 2013. Said grant shall be used exclusively for the payment of salary, benefits and project costs incurred by the Neighborhood Center of Council Bluffs (NCCB). Each fiscal year the City shall make a payment of \$20,000 to UNO on or before October 1
- 4. Progress Reports.** UNO shall submit quarterly progress reports to the City in the form, content, and frequency as required by the City (see Attachment A).
- 5. Termination.** Either party may terminate this Agreement for material breach on thirty (30) days written notice, during which period the breaching party may cure. Additionally, either party may terminate this Agreement for its convenience upon sixty (60) days prior written notice to the other party. Upon termination, the City shall promptly pay UNO for all services rendered and costs incurred up to and including the effective date of termination. Notice of termination shall be addressed to:

UNO

Julie Totten
Associate Vice Chancellor
for Business and Finance
University of Nebraska at Omaha
6001 Dodge Street
Omaha, NE 68182

CITY

Mayor
City of Council Bluffs
209 Pearl Street
Council Bluffs, IA 51503

6. **Independent Contractor.** The parties hereto are independent contractors and each shall be solely responsible for maintenance and payment of any and all taxes, insurance, social security deductions and the like that may be required by federal, state or local law with respect to any sums paid hereunder. UNO is not City's agent or representative and has no authority to bind or commit UNO to any agreements or other obligations.

7. **Mutual Indemnification.** Each party agrees that it will be responsible for its own acts and the results thereof and shall not be responsible for the acts of the other party and the results thereof. Each party therefore agrees that it will assume all risk and liability to itself, its agents or employees for any injury to persons or property resulting in any manner from the conduct of its own operations and the operations of its agents or employees under this Agreement, and for any loss, cost, or damage caused thereby during the performance of this Agreement.

8. **General.** This Agreement is non-assignable and non-transferrable. Both parties certify that they are duly authorized to enter into this Agreement and that in doing so are not in breach of any agreement or obligation to a third party.

9. **Entire Agreement.** Unless otherwise specified, this Agreement embodies the entire understanding between the City and UNO. No amendments or changes to this Agreement, including without limitation, changes in the statement of work, total estimated cost, and period of performance, shall be effective unless made in writing and signed by authorized representatives of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate by proper persons thereunto duly authorized.

, Mayor
City of Council Bluffs

Date

Julie Totten, Associate Vice Chancellor for Business and Finance
University of Nebraska at Omaha

Date

Attachment A - Statement of Work

Work plan		Accountability
October 1 thru Dec 31 2008		
Finalize job descriptions and post for Outreach Coordinator and Program Assistant positions		Ron
Conduct interviews and hire CB staff		All staff/stakeholders
Locate office space		All staff/stakeholders
Set up office (technology, furniture, materials, etc)		All staff/stakeholders
Coordinate press release		Ron, Media Consultant, City and IWF
Begin orientation for new staff		All staff
January 1 Thru December 31, 2009		
Conduct a series of community meetings		All staff
Identify and cultivate neighborhood leaders		CB staff
Develop new neighborhood associations (neighborhood meetings, bylaws, etc		All staff
Develop CB appropriate materials		CB staff
Meet on a regular basis with City officials and IWF staff		CB staff
Coordinate activities with media consultant		CB staff
Develop curriculum and conduct Neighborhood Builders		CB staff
Develop and coordinate Block of Builders series (newsletter, social advocacy, etc)		CB staff
Work to maintain established neighborhood associations		CB staff
Coordinate activities with Main Streets and Elm Street programs		CB staff
Conduct outreach activities with various other non-profitsa and stakeholders		CB staff
Work with web designer and post website		CB staff
Begin to establish Neighborhood alliances		CB staff
Establish CB advisory group (Neighborhood Cabinet)		CB staff
Communicate on a regular basis with Neighborhood Center staff		All staff
Identify and hire graduate assistant		All staff/stakeholders

Council Communication

Department: Community Development Case/Project No. N/A	Ordinance No. Resolution No. <u>08-288</u>	City Council: <u>9/22/08</u>
Subject/Title On June 23, 2003, City Council adopted Resolution No. 03-138 which approved the Playland Park Urban Renewal Plan and Area. The urban renewal area established by this action includes 89 acres of developed and undeveloped property in the vicinity of I-480 and 41 st Street. The intent of this action was to cause the redevelopment of the Former Frito Lay site and adjacent properties and develop the vacant land on both sides of the Missouri River levee generally west of North 40 th Street and south of Avenue B. As you are aware, the former Frito Lay site was acquired and prepared for the construction of a multi-family housing project. Further, a development plan for the vacant land on both sides of the Missouri River levee generally west of North 40 th Street and south of Avenue B was adopted on December 10, 2007. Efforts are now underway to implement the recommendations of this document.		
Background/Discussion The area included in the development plan includes the existing Playland Park. Playland Park consists of 8.83 acres and was constructed in the early 1980s using federal Land and Water Conservation Funds (LAWCON). Plans propose to convert 7.26 acres of Playland Park for public infrastructure and private development. However, LAWCON regulations require an equal monetary value replacement of any park land that was previously assisted with LAWCON funds. Based on an appraisal by Mitchell and Associates, the monetary value of the 7.26 acres has been established at \$240,000. Therefore, in order to convert the 7.26 acres of park land, a total of \$240,000 land will need to be acquired at other locations within the community. Staff anticipates the acquisition of 3 or 4 parcels of land will be necessary to meet this requirement. City Council has previously approved the acquisition of 850 West Graham. Currently, a two lot industrial parcel located northeast of North 13 th Street and Avenue B can be acquired. An appraisal was complete on the property which set a value of \$36,600 and the owner is willing to dispose of the property for that amount. The property abuts other City owned properties to the north, east, and south which have identified for acquisition and open space development by the Mid City Plan.		
Recommendation Approval of resolution authorizing the Mayor to execute a purchase agreement for the acquisition of Lot 6, west 2 feet of Lot 7, and sly 5 feet of vacated alley, Block 3, Beers Addition from Dillard Avey for \$36,600.		
Submitted By: Donald Gross, Director, Community Development Department Approved By: Donald Gross, Director, Community Development Department		



RESOLUTION NO. 08-288

A RESOLUTION AUTHORIZING THE MAYOR TO ACQUIRE PROPERTY LOCATED NORTHEAST OF NORTH 13TH STREET AND AVENUE B AS PART OF THE PLAYLAND PARK LAND MITIGATION PROJECT.

- WHEREAS,** the City has adopted a development plan for the area north of I-480 and North 41st Street which includes Playland Park; and
- WHEREAS** Playland Park which consists of 8.83 acres was constructed in the early 1980s using federal Land and Water Conservation Funds (LAWCON); and
- WHEREAS** the said development plan proposes to convert 7.26 acres of Playland Park for public infrastructure and private development; and
- WHEREAS,** LAWCON regulations implemented by the Iowa Department of Natural resources (IDNR) require an equal monetary value replacement of converted park land; and
- WHEREAS,** the monetary value of the 7.26 acres has been appraised at \$240,000; and
- WHEREAS,** a parcel of land located at North 13th Street and Avenue B can be acquire for \$36,600 which is a partial replacement; and
- WHEREAS** existing project fund balances are available to acquire the property; and
- WHEREAS,** City Council finds that the acquisition of the property would be in the best interest of the City.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:**

That the Mayor is hereby authorized and directed to execute a purchase agreement for the acquisition of Lot 6, west 2 feet of Lot 7, and sly 5 feet of vacated alley, Block 3, Beers Addition from Dillard Avey for \$36,600.

ADOPTED

AND

APPROVED: September 22, 2008

Thomas P. Hanafan

Mayor

ATTEST: _____

Judith Ridgeley

City Clerk

Council Communication

Department: Community Development	Resolution No. <u>08-289</u>	City Council: 9/22/08
Subject/Title Amend North 16 th Street & Avenue G Urban Renewal Plan and Area.		
Background/Discussion <p>On July 24, 2006, City Council adopted Resolution No. 06-191, which created the Amended North 16th Street & Avenue G Urban Renewal Plan and corresponding area. Although this area was established for 10 years, a tax increment financing district was not created for the area.</p> <p>As a result of the urban renewal area numerous properties were acquired and demolished. The site was subsequently transferred to others for the development of the Lakin Campus, which is near completion. The City's obligations associated with the project have now been satisfied. Therefore, the urban renewal plan and area can be repealed. A corresponding resolution has been prepared and is attached for your review and consideration.</p>		
Recommendation That City Council adopt a resolution repealing the Amended North 16 th Street & Avenue G Urban Renewal Plan and Area.		
Submitted By: Donald Gross, Director, Community Development Department Approved By: Donald Gross, Director, Community Development Department		

Prepared by: Community Development Dept. 209 Pearl Street, Co. Bluffs, IA 51503 - Phone: 328-4629
Return to: Community Development Dept., 209 Pearl Street, Co. Bluffs, IA 51503 - Phone: 328-4629

RESOLUTION NO. 08-289

A RESOLUTION REPEALING THE AMENDED NORTH 16TH STREET & AVENUE G URBAN RENEWAL PLAN AND AREA.

- WHEREAS,** the City of Council Bluffs has the authority under Chapter 403 of the Iowa Code to declare areas to be urban renewal areas; and
- WHEREAS,** on July 24, 2006, the City Council adopted Resolution No. 06-191, which created the Amended North 16th Street & Avenue G Urban Renewal Plan and Area; and
- WHEREAS,** this area was created to assist with the redevelopment of a six block area in the vicinity of North 16th Street & Avenue G; and
- WHEREAS,** this project has been implemented and City obligations satisfied; and
- WHEREAS,** it becomes prudent to repeal the Amended North 16th Street & Avenue G Urban Renewal Plan and Area.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

That the Amended North 16th Street & Avenue G Urban Renewal Plan and Area are hereby repealed effective immediately.

ADOPTED

AND

APPROVED: September 22, 2008

Thomas P. Hanafan

Mayor

ATTEST:

Judith H. Ridgeley

City Clerk

Council Communication
September 22, 2008 City Council Meeting

Department: Community Development	Ordinance No.: N/A Resolution No.: <u>08-290</u>	Date: <u>9/22/2008</u>
Case/Project No.: EZ-08-003		
Subject/Title 1) Application for Enterprise Zone Benefits – Amendment #1 2) Repeal of the Development Agreement and Minimum Assessment Agreement		
Applicant Harvester Artist Lofts, L.P. (successor to Artspace Projects, Inc.)		
Location 1000 South Main Street (International Harvester Building)		
Background/Discussion <u>Background</u> In October of 2007, both the Enterprise Zone and the City Council approved an Enterprise Zone application from Artspace Projects, Inc. to assist them with the conversion of the vacant International Harvester Building at 1000 South Main Street into an affordable housing community for artists. The building will be converted into 36 live/work housing units, nine working artist studios and gallery space with 54 enclosed parking spaces. A unit mix of two efficiencies, eleven one bedrooms, eighteen two bedrooms and five three bedrooms is planned. Each unit will have sufficient additional space (about 200 square feet) for a work studio. All units will be available to persons and/or households at or below 60% of the area median income. The project will also offer common space within the building, including a community room, gallery and performance space, computer lab, elevators, bike storage and an outdoor playground area. Each unit will have a refrigerator, dishwasher, washer, dryer, microwave, range, HVAC, high speed internet, storage closets and window coverings. Per the submitted Enterprise Zone application, the total project investment will be \$10,467,120 with a per unit development price of \$290,000 or approximately \$140,000 per unit construction cost. The project is currently in the preconstruction phase and the developer would like to begin work in October 2008, finishing by December 2009. A key component to this project was the award of low income housing tax credits from the Iowa Finance Authority in March of 2008. Other sources of funding will be historic tax credits, bank financing, the Federal Home Loan Bank, grants from PCDC and the Iowa West Foundation, City HOME funds, City EDI funds and a deferred developer fee/developer sponsor loan. Initially the project did not receive the Enterprise Zone benefit of tax abatement, as a separate City development agreement allocated tax increment financing to the project which superseded the tax abatement incentive allowable under the Enterprise Zone Program. However, after further analysis, the tax abatement incentive is much more attractive to the project and desired by the developer. The developer has requested the nullification of the TIF incentives for the project and the minimum assessment agreement. The developer has also requested the Enterprise Zone benefits be approved for the entity known as Harvester Artist Lofts, L.P., which is the successor to and an affiliate of Artspace Projects, Inc.		

Council Communication
September 22, 2008 City Council Meeting

Discussion

The City Council established the original Enterprise Zone and Enterprise Zone Commission with the adoption of Resolution Nos. 97-201 and 99-23. The State of Iowa made this possible by the approval of the Enterprise Zone Legislation on July 1, 1997 and the revision of the law during the 1998 legislature to include housing development. The stipulations placed upon the housing project include the construction or rehabilitation of four or more single family houses or one or more multi-family units containing three or more units. Later, City Council established additional Enterprise Zones with the adoption of Resolution Nos. 06-68 and 06-69 on February 27, 2006. These two new zones were approved by the State on April 20, 2006. A fourth Enterprise Zone was added on March 26, 2007 with Resolution No. 07-151. It was approved by the State on May 17, 2007. Enterprise Zone-5 and Enterprise Zone-6 were added to the City on October 22, 2007 by Resolutions 07-407 and 07-408 respectively. The State approved the designation of both of these zones on November 15, 2007.

Based on review of the applicant's request, the project herein listed meets the State Enterprise Zone requirements and is located in the Council Bluffs Enterprise Zone-5. As a result, the applicant is eligible for the following benefits: 10% investment tax credit, 100% rebate of state sales and utility use taxes and 100% tax abatement for three years on eligible improvements made to real property. The estimated total financial enterprise zone incentive available to the project is \$417,344.

Staff Recommendation

The Community Development Department recommends approval of amendment #1 to the applicant's request for Enterprise Zone benefits for the renovation of 36 multi-family units located in the International Harvester Building at 1000 South Main Street, granting them 100% tax abatement for three years on the eligible improvements made to the real property, the slight downward adjustment of the project investment figures and changing the applicant name to Harvester Artist Lofts, L.P.

The Community Development Department also recommends the deletion of the development agreement approved by City Council on October 7, 2007 by Resolution No. 07-395 and the associated minimum assessment agreement.

Enterprise Zone Commission Recommendation

On September 8, 2008, the Council Bluffs Enterprise Zone Commission met and approved amendment #1 to the previously approved Enterprise Zone application from Harvester Artist Lofts, L.P. (successor to Artspace Projects, Inc.). Motion by Biede, second by Andersen to concur with staff recommendation and approve amendment #1 to the applicant's request for Enterprise Zone benefits as submitted. The motion carried by unanimous voice vote with Norman abstaining.

VOTE: AYE – Andersen, Biede, Hornbeck, Jares, Milford, Prichard and Stazzoni; NAY – None; ABSTAIN – Norman; ABSENT – Bates

Attachments

The Harvester Artist Lofts, L.P. amended Enterprise Zone application discussed above has been provided under separate cover.

RESOLUTION NO. 08-290

A RESOLUTION REPEALING THE DEVELOPMENT AGREEMENT AND MINIMUM ASSESSMENT AGREEMENT BETWEEN THE CITY OF COUNCIL BLUFFS AND ARTSPACE PROJECTS, INC. FOR THE REDEVELOPMENT OF 1000 SOUTH MAIN STREET.

- WHEREAS,** On October 8, 2007, by Resolution 07-395, the City Council authorized the Mayor to execute a development agreement with Artspace Projects, Inc. for the redevelopment of 1000 South Main Street; and
- WHEREAS,** The development agreement also required the execution of a minimum assessment agreement for the project; and
- WHEREAS,** The development agreement approved the use of tax increment financing incentives for the project; and
- WHEREAS,** After further review, the project developer has determined it is in their best interest to pursue the tax abatement incentives allowable under the Enterprise Zone Program; and
- WHEREAS,** It is necessary to repeal the aforementioned development agreement and minimum assessment agreement.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

That the development agreement and minimum assessment agreement between the City of Council Bluffs and Artspace Projects, Inc. are hereby repealed effective immediately.

ADOPTED

AND

APPROVED: September 22, 2008

Thomas P. Hanafan

Mayor

ATTEST:

Judith H. Ridgeley

City Clerk

Council Communication
September 22, 2008 City Council Meeting

Department: Community Development	Ordinance No.: N/A Resolution No.: <u>08-291</u>	Date: <u>9/22/2008</u>
Case/Project No.: EZ-08-003		
Subject/Title 1) Application for Enterprise Zone Benefits – Amendment #1 2) Repeal of the Development Agreement and Minimum Assessment Agreement		
Applicant Harvester Artist Lofts, L.P. (successor to Artspace Projects, Inc.)		
Location 1000 South Main Street (International Harvester Building)		
Background/Discussion <u>Background</u> In October of 2007, both the Enterprise Zone and the City Council approved an Enterprise Zone application from Artspace Projects, Inc. to assist them with the conversion of the vacant International Harvester Building at 1000 South Main Street into an affordable housing community for artists. The building will be converted into 36 live/work housing units, nine working artist studios and gallery space with 54 enclosed parking spaces. A unit mix of two efficiencies, eleven one bedrooms, eighteen two bedrooms and five three bedrooms is planned. Each unit will have sufficient additional space (about 200 square feet) for a work studio. All units will be available to persons and/or households at or below 60% of the area median income. The project will also offer common space within the building, including a community room, gallery and performance space, computer lab, elevators, bike storage and an outdoor playground area. Each unit will have a refrigerator, dishwasher, washer, dryer, microwave, range, HVAC, high speed internet, storage closets and window coverings. Per the submitted Enterprise Zone application, the total project investment will be \$10,467,120 with a per unit development price of \$290,000 or approximately \$140,000 per unit construction cost. The project is currently in the preconstruction phase and the developer would like to begin work in October 2008, finishing by December 2009. A key component to this project was the award of low income housing tax credits from the Iowa Finance Authority in March of 2008. Other sources of funding will be historic tax credits, bank financing, the Federal Home Loan Bank, grants from PCDC and the Iowa West Foundation, City HOME funds, City EDI funds and a deferred developer fee/developer sponsor loan. Initially the project did not receive the Enterprise Zone benefit of tax abatement, as a separate City development agreement allocated tax increment financing to the project which superseded the tax abatement incentive allowable under the Enterprise Zone Program. However, after further analysis, the tax abatement incentive is much more attractive to the project and desired by the developer. The developer has requested the nullification of the TIF incentives for the project and the minimum assessment agreement. The developer has also requested the Enterprise Zone benefits be approved for the entity known as Harvester Artist Lofts, L.P., which is the successor to and an affiliate of Artspace Projects, Inc.		

Council Communication
September 22, 2008 City Council Meeting

Discussion

The City Council established the original Enterprise Zone and Enterprise Zone Commission with the adoption of Resolution Nos. 97-201 and 99-23. The State of Iowa made this possible by the approval of the Enterprise Zone Legislation on July 1, 1997 and the revision of the law during the 1998 legislature to include housing development. The stipulations placed upon the housing project include the construction or rehabilitation of four or more single family houses or one or more multi-family units containing three or more units. Later, City Council established additional Enterprise Zones with the adoption of Resolution Nos. 06-68 and 06-69 on February 27, 2006. These two new zones were approved by the State on April 20, 2006. A fourth Enterprise Zone was added on March 26, 2007 with Resolution No. 07-151. It was approved by the State on May 17, 2007. Enterprise Zone-5 and Enterprise Zone-6 were added to the City on October 22, 2007 by Resolutions 07-407 and 07-408 respectively. The State approved the designation of both of these zones on November 15, 2007.

Based on review of the applicant's request, the project herein listed meets the State Enterprise Zone requirements and is located in the Council Bluffs Enterprise Zone-5. As a result, the applicant is eligible for the following benefits: 10% investment tax credit, 100% rebate of state sales and utility use taxes and 100% tax abatement for three years on eligible improvements made to real property. The estimated total financial enterprise zone incentive available to the project is \$417,344.

Staff Recommendation

The Community Development Department recommends approval of amendment #1 to the applicant's request for Enterprise Zone benefits for the renovation of 36 multi-family units located in the International Harvester Building at 1000 South Main Street, granting them 100% tax abatement for three years on the eligible improvements made to the real property, the slight downward adjustment of the project investment figures and changing the applicant name to Harvester Artist Lofts, L.P.

The Community Development Department also recommends the deletion of the development agreement approved by City Council on October 7, 2007 by Resolution No. 07-395 and the associated minimum assessment agreement.

Enterprise Zone Commission Recommendation

On September 8, 2008, the Council Bluffs Enterprise Zone Commission met and approved amendment #1 to the previously approved Enterprise Zone application from Harvester Artist Lofts, L.P. (successor to Artspace Projects, Inc.). Motion by Biede, second by Andersen to concur with staff recommendation and approve amendment #1 to the applicant's request for Enterprise Zone benefits as submitted. The motion carried by unanimous voice vote with Norman abstaining.

VOTE: AYE – Andersen, Biede, Hornbeck, Jares, Milford, Prichard and Stazzoni; NAY – None; ABSTAIN – Norman; ABSENT – Bates

Attachments

The Harvester Artist Lofts, L.P. amended Enterprise Zone application discussed above has been provided under separate cover.

RESOLUTION NO. 08-291

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS AUTHORIZING A JOINT APPLICATION TO THE IOWA DEPARTMENT OF ECONOMIC DEVELOPMENT (IDED) BY THE COUNCIL BLUFFS ENTERPRISE ZONE COMMISSION AND HARVESTER ARTIST LOFTS, L.P. (SUCCESSOR TO ARTSPACE PROJECTS, INC.) FOR AMENDMENT #1 TO EZ AGREEMENT #08-HEZ-020.

- WHEREAS,** The City of Council Bluffs established Enterprise Zone-5 with the adoption of Resolution No. 07-407; and
- WHEREAS,** Enterprise Zones and the eligible benefits under House File 724 were established to promote economic and housing development in distressed areas; and
- WHEREAS,** In October of 2007, Artspace Projects, Inc. received approval from the Enterprise Zone Commission for enterprise zone benefits to convert the vacant International Harvester Building at 1000 South Main Street into an affordable housing community for artists; and
- WHEREAS,** The project involves the renovation of 36 multi-family units; and
- WHEREAS,** The investment of the project will be \$10,467,120; and
- WHEREAS,** The developer has requested Amendment #1 to their existing Enterprise Zone Agreement; and
- WHEREAS,** This amendment changes the name of the housing business to Harvester Artist Lofts, L.P. and requests 100% tax abatement for three years on eligible improvements made to the real property; and
- WHEREAS,** On September 8, 2008, the Enterprise Zone Commission held a public meeting to review the amendment request of Harvester Artist Lofts, L.P.; and
- WHEREAS,** After review and consideration of the amendment request, the Enterprise Zone Commission determined that the Harvester Artist Lofts, L.P. project meets the requirements to qualify for benefits and merits approval of Amendment #1.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

Section 1.0 The City Council finds that the Harvester Artist Lofts, L.P. project is located within the Council Bluffs Enterprise Zone-5 as approved with the adoption of Resolution No. 07-407.

Section 2.0 The City Council declares Harvester Artist Lofts, L.P. an eligible entity for Enterprise Zone benefits.

Section 3.0 That the Commission shall provide a copy of this resolution to the Iowa Department of Economic Development and shall file this resolution with the Pottawattamie County Assessor and Recorder.

Section 4.0 The City Council approves the Harvester Artist Lofts, L.P. request for a 10% state investment tax credit and a 100% rebate of sales and utility use taxes subject to the entity entering into an

agreement with the City. The tax credit, if not entirely used during the first year, can be carried over and applied against state tax liability for the next seven years or until depleted, whichever occurs first. The project is also approved for a 100% tax abatement for three years on eligible improvements made to the real property.

Section 5.0 The Mayor is hereby authorized to take such further actions as are deemed necessary in order to carry into effect the provisions of this resolution.

Section 6.0 The provisions of this resolution shall be governed by the laws of the State of Iowa.

Section 7.0 That all resolutions and parts thereof in conflict therewith are hereby repealed to the extent of such conflict.

Section 8.0 That the provisions of this resolution are hereby declared to be separable and if any section, phrase, or provision shall be any reason be declared to be invalid, such declaration shall not effect the validity of the remainder of the sections, phrases and provisions hereof.

Section 9.0 That this resolution shall become effective immediately upon its passage and approval.

ADOPTED

AND

APPROVED: September 22, 2008

Thomas P. Hanafan

Mayor

ATTEST:

Judith H. Ridgeley

City Clerk

STATE OF IOWA)
COUNTY OF)ss
POTTAWATTAMIE)

On this _____ day of _____, 2008, before me the undersigned, a Notary Public in and for said County and State, personally appeared Thomas P. Hanafan and Judith H. Ridgeley, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk respectively, of the said City of Council Bluffs, Iowa, a Municipal Corporation, that the seal affixed hereto is the seal of said Municipal Corporation; that said instrument was signed and sealed on behalf of the said City of Council Bluffs, Iowa, by authority of its City Council; and that said Thomas P. Hanafan and said Judith H. Ridgeley, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.

Notary Public in and for said State

Council Communication
September 22, 2008 City Council Meeting

Department: Community Development	Ordinance No.: N/A Resolution No.: <u>08-293</u>	Date: <u>September 22, 2008</u>
Case/Project No.: N/A		
Subject/Title		
Amendment of 2008 and 2009 Annual Plan for Community Development Block (CDBG) Program funds.		
Background/Discussion		
<u>Background</u> The Annual Plan is a document which describes the various resources expected to be available from the U.S. Department of Housing and Urban Development (HUD) and how these resources will be used to address the priority needs and local objectives as set forth in the Consolidated Plan. The Community Development Advisory Committee (CDAC) assists the Community Development Department with the preparation of this plan by setting goals and objectives, allocating resources and holding a series of public hearings. Occasionally, throughout the year, as additional information becomes known, it is necessary to amend the Annual Action Plan.		
<u>Discussion</u> The Pottawattamie County Homeless Link (PCHL) is a program that has been serving the homeless and near homeless of Council Bluffs and southwest Iowa since 1999. PCHL is comprised of Heartland Family Service, the lead agency; the MICAH House emergency shelter; MOHM's Place; and the Iowa Legal Aid. PCHL has case workers that work with clients to assure that the clients have access to services they need to assist them with accessing stable permanent housing. PCHL is funded through the U.S. Department of Housing and Urban Development (HUD) through Omaha and Council Bluffs' Metro Area Continuum of Care for the Homeless (MACCH). Recently, HUD changed the criteria for applicants receiving funds through the Continuum of Care process. As part of the changes, PCHL no longer qualifies for the HUD Continuum of Care funds at their current level. Therefore, PCHL has restructured their program and their HUD Continuum of Care application. In short, PCHL has increased their HUD Continuum of Care funding to assist more with providing stable and permanent housing. However, this leaves a gap in the amount of funds available for case managers. PCHL is requesting CDBG funds to assist with providing the case managers and supportive services component of their program. The two Attachments outline the proposed amended 2008 and 2009 Annual Plans for CDBG Program funds. The 2008 and 2009 Annual Plans are now in need of being amended to reflect providing PCHL with \$15,000 in 2008 CDBG and \$73,790 in 2009 CDBG. In order to provide CDBG funding to PCHL, program funds from other City Programs were cut.		
Staff Recommendation		
The Community Development Department recommends amending the 2008 and 2009 Annual Plans to reflect funding PCHL and directing the Mayor to submit an amended 2008 and 2009 Annual Plan to HUD. Additionally, we recommend authorizing the Mayor to execute contracts with HUD for the use of CDBG funds.		
Community Development Advisory Committee		
On September 12, 2008, the Community Development Advisory Committee (CDAC) met to review the amendments. CDAC recommends amending the 2008 and 2009 Annual Plan to reflect funding PCHL and directing the Mayor to submit an amended 2008 and 2009 Annual Plan to HUD. Additionally, they recommend authorizing the Mayor to execute contracts with HUD for the use of CDBG funds.		
VOTE to amend 2008 and 2009 CDBG Budgets: AYE: Madsen, McManus, Norman and Heininger; NAY – None; ABSTAIN – None; ABSENT – None.		
Attachments		
Attachment A – Amended 2008 CDBG Budget		
Attachment A1 – Amended 2009 CDBG Budget		

Submitted by: Tina Hochwender, Project Coordinator, Community Development Department

Approved by: Donald D. Gross, Director, Community Development Department

GM

RESOLUTION NO. 08-293

A RESOLUTION AMENDING THE USE OF B-08 AND B-09 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS AND DIRECTING THE MAYOR TO SUBMIT AN AMENDED 2008 AND 2009 ANNUAL ACTION PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD).

- WHEREAS, The City of Council Bluffs is an entitlement community which receives CDBG funding from HUD which requires the submission of an Annual Action Plan; and
- WHEREAS, The 2008 Annual Action Plan is for the period of January 1, 2008 to December 31, 2008; and
- WHEREAS, The 2009 Annual Action Plan is for the period of January 1, 2009 to December 31, 2009; and
- WHEREAS, The Pottawattamie County Homeless Link (PCHL) is a program that serves the homeless and near homeless of Council Bluffs and southwest Iowa; and
- WHEREAS, The PCHL is requesting 2008 and 2009 CDBG Program funds; and
- WHEREAS, After consideration and review, the Community Development Department and the Community Development Advisory Committee have prepared amendments to the B-08 and B-09 Annual Action Plans; and
- WHEREAS, The amendments are outlined in Attachments 'A' and 'A'1; and
- WHEREAS, It is the opinion of the City Council that it would be in the best interest of the City to amend its B-08 and B-09 Annual Action Plan to reflect cutting City Programs to fund the PCHL with \$15,000 in 2008 CDBG Program funds and \$73,790 in 2009 CDBG Program funds.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

That the amendments as outlined in Attachments 'A' and 'A'1 are hereby approved as amended and the Mayor is hereby directed to forward the proposed amendments to the B-08 and B-09 Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD). Additionally, the Mayor is hereby authorized to execute contracts with the HUD for the use of CDBG funds.

ADOPTED
AND
APPROVED: September 22, 2008

Thomas P. Hanafan Mayor

ATTEST:

Judith H. Ridgeley City Clerk

SECTION I - 2009 AMENDED COMMUNITY DEVELOPMENT PROGRAM AND PROJECT EXPENDITURES

	Approved 8-11-08 CDBG	Staff Recommended Amended CDBG
<u>Community Development Program</u>		
<u>Part I - Housing Development</u>		
<u>Housing Rehabilitation</u>		
Home Improvement Program	\$800,000	
League of Human Dignity	\$21,375	
The Fuller Center for Housing	\$0	
<u>Blight Removal</u>		
Blighted Program	\$192,375	
<u>Housing Development</u>		
Habitat for Humanity	\$42,500	
Subtotal - Housing Development	\$1,056,250	
<u>Part II - Economic Development</u>		
Subtotal - Economic Development	\$0	
<u>Part III - Public Services/Facilities</u>		
<u>Homeless/Transitional</u>		
Phoenix House -Domestic Violence	\$8,550	
Family Service - Micah House	\$38,475	
Heartland Family Service - Heartland Homes	\$12,500	
Heartland Family Service - Potl. Co. Homeless Link	\$0	
<u>Housing Counseling</u>		
FHAS	\$29,925	
Subtotal - Public Services/Facilities	\$89,450	
<u>Part IV - Administration</u>		
CD Department Admin	\$335,000	
Subtotal - Administration	\$335,000	
<u>Part V - Undesignated</u>		
Undesignated Funds	\$14,593	
Subtotal - Undesignated	\$14,593	
Total CD Program	\$1,495,293	
<u>Community Development Projects</u>		
Mid City Corridor Project	\$300,000	
South Main Project	\$297,000	
Katelman Project	\$328,300	
Playland Park Project	\$500,000	
Neighborhood Development	\$200,000	
Total CD Projects	\$1,625,300	
Total CD Program and Projects	\$3,120,593	

SECTION II - 2008 COMMUNITY DEVELOPMENT PROGRAM AND PROJECT REVENUES

<u>Part I - CDBG Grants and Unobligated Income</u>	<u>Source</u>	<u>\$ Amounts</u>
CDBG 2009 Entitlement	HUD	\$1,052,043
CDBG 2008 Carryover Unobligated	HUD	\$30,000
Miscellaneous Refunds	Refunds	\$30,000
Miscellaneous Fees	Fees	\$5,000
Subtotal - CDBG Grants and Unobligated Income		\$1,117,043
<u>Part II - CDBG Obligated Income</u>	<u>Source</u>	<u>\$ Amounts</u>
Home Improvement Program	Loan Payments	\$100,000
Home Improvement Program	IWF	\$350,000
Blighted Program	IWF	\$64,125
Blighted Program	Land Sales	\$64,125
Mid City Corridor Project	IWF	\$150,000
South Main Project	EDI	\$297,000
Katelman Project	EDI	\$328,300
Playland Park Project	EDI	\$500,000
Neighborhood Development	CIP	\$150,000
Subtotal - CDBG Obligated Income		\$2,003,550
Total CD Program and Project Income		\$3,120,593

Council Communication
September 22, 2008 City Council Meeting

Department: Community Development	Ordinance No.: N/A	
Case/Project No.: N/A	Resolution No.: <u>08-294</u>	Date: <u>September 22, 2008</u>
Subject/Title		
2009 Annual Plan for Home Investment Partnership Program (HOME) and American Dream Down Payment Initiative (ADDI) funds.		
Background/Discussion		
<u>Background</u> The City of Council Bluffs is an entitlement community under the Community Development Block Grant (CDBG) program, which results in annual funding from the U.S. Department of Housing and Urban Development. The City has also entered into a HOME consortium agreement with the City of Omaha, which results in receiving annual funds from the Home Investment Partnership Program (HOME) and the American Dream Down Payment Initiative (ADDI) program. In order to receive these funds, the City is required to submit to HUD an Annual Plan. The Annual Plan details the City's objectives, revenues, expenditures and other actions. This document is prepared by the Community Development Department with input from the Community Development Advisory Committee (CDAC). A thirty (30) day comment period is required prior to submitting the application and Annual Plan on or before November 15, 2008. This process began in June of 2008 and was finalized by the Community Development Advisory Committee on September 22, 2008. This document was developed with the anticipation of receiving \$267,000 in HOME funding and \$2,896 in ADDI funding for the period of January 1, 2009 through December 31, 2009.		
<u>Discussion</u> Te available funds were allocated to various projects using a request for proposal (RFP) process. This included a notification to previous applicants and interested parties of the availability of funding. Upon the receipt of proposals, public hearings were held and recommendations formulated. The Community Development Department and the CDAC are now recommending the allocation of the HOME and ADDI Program funds. A listing of the programs recommended for HOME and ADDI funds is attached for your review. Upon City Council approval, the Community Development Department will forward the 2009 Annual Plan to the City of Omaha and to HUD.		
Staff Recommendation		
The Community Development Department recommends that the City Council adopt a resolution approving the use of the 2009 Home Investment Partnership Program (HOME) and American Dream Down Payment Initiative (ADDI) funds as outlined in the attached budgets and direct the Mayor to submit the 2009 Annual Plan to the U. S. Department of Housing and Urban Development.		
Community Development Advisory Committee		
On September 12, 2008, the Community Development Advisory Committee (CDAC) met to review the 2009 HOME and ADDI program funds and recommend their approval. CDAC recommends allocating the HOME and ADDI Program funds as outlined in that attached budgets and directing the Mayor to submit a 2009 Annual Plan to the U.S. Department of Housing and Urban Development. Motion carried by unanimous voice vote. VOTE: AYE: Madsen, McManus, Norman, and Heininger; NAY – None; ABSTAIN – None; ABSENT – None.		
Attachments		
Attachment B – 2009 HOME Budget and Attachment C – 2009 ADDI Budget		

Submitted by: Tina Hochwender, Project Coordinator, Community Development Department
Approved by: Donald D. Gross, Director, Community Development Department

GN

RESOLUTION NO. 08-294

A RESOLUTION APPROVING THE USE OF 2009 HOME INVESTMENT PARTNERSHIP (HOME) AND 2009 AMERICAN DREAM DOWN PAYMENT INITIATIVE (ADDI) FUNDS AND DIRECTING THE MAYOR TO SUBMIT THE ANNUAL PLAN TO THE CITY OF OMAHA AND THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD).

WHEREAS, the City of Council Bluffs receives HOME and ADDI funds from HUD through the Omaha-Council Bluffs HOME Consortium; and

WHEREAS, the Community Development Advisory Committee held a public hearing to obtain the views of citizens on housing and community development needs; and

WHEREAS, the Community Development Department and the Community Development Advisory Committee received requests from the public for HOME and ADDI funding; and

WHEREAS, the Community Development Advisory Committee held public hearings on said funding requests to ensure that citizens have had an opportunity to present project proposals and comments; and

WHEREAS, on September 12, 2008, the Community Development Advisory Committee prepared recommendations on said funding requests; and

WHEREAS, it is the opinion of the City Council that it would be in the best interest of the City to allocate HOME and ADDI funds as listed and outlined in Attachments B and C.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

That the programs listed in Attachments B and C with the corresponding HOME and ADDI amounts are hereby approved.

BE IT FURTHER RESOLVED

That the Mayor is hereby directed to cause the preparation of an Annual Plan which outlines the proposed use of funds as required by the U.S. Department of Housing and Urban Development.

ADOPTED

AND

APPROVED: September 22, 2008

Thomas P. Hanafan

Mayor

ATTEST:

Judith H. Ridgeley

City Clerk

2009 Home Investment Partnership Program (HOME) - Council Bluffs

<u>Program</u>	<u>Description</u>	<u>Unit Goals</u>	<u>2009 HOME Budget</u>	<u>Low and Moderate Income Benefit</u>			<u>Other Public Funds</u>	<u>Private Funds</u>	<u>Total Project Costs</u>
Direct Homeownership Assistance	Downpayment assistance to first-time low and moderate income homebuyers through the provision of second mortgages to purchase 8 newly constructed single family homes.	5	\$117,000	\$234,000	\$0	\$117,000			\$234,000
Multi-Family Housing Development Project	Land acquisition, demolition and/or construction related costs for 1 or 2 multi-family housing development projects.	3	\$150,000	\$150,000	\$0	\$0			\$150,000
				\$267,000	\$384,000	\$0	\$117,000		\$384,000

1/12/2008

2009 American Dream Downpayment Initiative (ADDI) Program - Council Bluffs

<u>Program</u>	<u>Description</u>	<u>Unit Goals</u>	<u>2009 ADDI Budget</u>	<u>Low and Moderate Income Benefit</u>		<u>Other Public Funds</u>	<u>Private Funds</u>	<u>Total Project Costs</u>
Direct Homeownership Assistance	Downpayment assistance to first-time low and moderate income homebuyers through the provision of second mortgages to purchase 1 newly constructed single family homes.	1	\$2,896	\$2,896	\$0	\$0	\$0	\$2,896
			\$2,896	\$2,896	\$0	\$0	\$0	\$2,896

1/12/2008

Subject: FW: tow final memo.doc
Attachments: Towing.doc

Council Bluffs Police Department

office of the chief of police

Memorandum

DATE: Monday, September 15, 2008
TO: Mayor Hanafan, Council Members
FROM: KA Mehlin
RE: Tow Contract
cc: Dick Wade

In reference to the latest bids for the towing contract, if you take both vendors and apply their bids to the actual cars we towed in 2007, then Arrow towing has the lowest bid. All other aspects of the bids are virtually the same. I have placed the figures at the bottom of this memo.

You should note that Arrow Towing did not follow the bid procedures as far as having a bid bond, and presented a personal check some time after the bids were due.

Vehicle Description	Number Towed	Jay B Price	Arrow Price
Passenger Cars and 1/2 Ton			
Pickups	1270	\$44,450.00	\$38,100.00
Motorcycles	26	\$780.00	\$780.00
Farm	1	\$5.00	\$5.00
Semi	2	\$50.00	\$40.00
Motor Homes	4	\$80.00	\$100.00
Totals		\$45,365.00	\$39,025.00

Keith Mehlin

Looking for spoilers and reviews on the new TV season? [Get AOL's ultimate guide to fall TV.](#)

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RESOLUTION NO. 08-295

A RESOLUTION TO AWARD THE VEHICLE TOWING AND STORAGE CONTRACT.

- WHEREAS, the City has a duty and responsibility to protect and maintain the public health, safety and welfare of its citizens; and
- WHEREAS, in its mission, the City finds it necessary to regulate and control vehicles found upon its streets, highway, alleys, and other public rights-of-way; and
- WHEREAS, after careful review of the latest bids received for the towing and storage of vehicles in accordance with the bid specifications, it is necessary to award the bid to the most qualified bidder.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the City does hereby award the Vehicle Towing and Storage Contract to _____ for a term beginning _____ and ending _____;

AND BE IT FURTHER RESOLVED

That staff is hereby authorized to execute said contract on behalf of the City.

ADOPTED
AND
APPROVED Sept. 22, 2008

Thomas P. Hanafan, Mayor

ATTEST: _____
Judith Ridgeley, City Clerk

Council Communication

Department: Legal	Ordinance No. Resolution No. <u>08-297</u>	Date: <u>September 22, 2008</u>
Case/Project No.		
Applicant		
SUBJECT/TITLE		
Resolution of intent to grant an easement to MidAmerican Energy.		
BACKGROUND		
To provide for the electrical needs of the soccer fields under construction at the Council Bluffs Recreation Complex located at 2900 Richard Downing Avenue, it is necessary to grant an electrical easement to MidAmerican Energy.		
RECOMMENDATION		
It is my recommendation that this resolution of intent be approved and that public hearing be set for October 13, 2008		

Richard Wade

Department Head Signature

Mayor Signature

GP

PREPARED BY: City Legal Department, 209 Pearl Street, Council Bluffs, IA 51503
RETURN TO: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

RESOLUTION NO. 08-297

A RESOLUTION OF INTENT TO DISPOSE OF CERTAIN CITY PROPERTY BY GRANTING AN UNDERGROUND ELECTRIC EASEMENT TO MIDAMERICAN ENERGY.

WHEREAS, as a part of the improvements to the Council Bluffs Recreation Complex, it is necessary to install a new utility line for service to this area; and

WHEREAS, it is in the best interest of the City to grant MidAmerican Energy an underground electric easement as depicted on the exhibit attached to this resolution.

NOW, THEREFORE, BE IT RESOLVED

BY THE CITY COUNCIL

OF THE

CITY OF COUNCIL BLUFFS, IOWA

That we do hereby express the City's intent to dispose of City property by granting said easement; and

BE IT FURTHER RESOLVED

That is matter be set for public hearing on October 13, 2008, as prescribed by law.

ADOPTED
AND
APPROVED Sept. 22, 2008

Thomas P. Hanafan, Mayor

ATTEST: _____
Judith Ridgeley, City Clerk

September 2, 2008

MidAmerican Energy Company
Attention: David A. Lane SC-3
PO Box 778
Sioux City, Iowa 51102

RE: CITY OF COUNCIL BLUFFS, IOWA
INTENT TO GRANT UNDERGROUND ELECTRIC EASEMENT
SOCCER COMPLEX- RICHARD DOWNING AVENUE- COUNCIL BLUFFS, IA

Dear David:

Please accept this letter as the intent of The City of Council Bluffs, their successors, agents and assigns to grant any and all necessary underground electric easements in the form you have provided us, and in the area generally depicted on the attached drawing. The City of Council Bluffs realizes that the precise location will be determined by survey immediately following the installation of the equipment. The City of Council Bluffs will formally act upon the request at a later date; however, in the interest of time and in order to maintain construction activities moving forward, we offer this letter so MidAmerican may proceed with scheduled work.

Sincerely,

CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA

By: _____

Its: _____
Printed or typed name and title of authorized officer or agent

STATE:
COUNTY:
CITY:
SECTION:
TOWNSHIP:
RANGE:
PROJECT #:
TYPE:

Prepared by and return to: David A. Lane-MidAmerican Energy Company-401 Douglas Street-PO Box 778,
Sioux City, Iowa 51102, Phone: 712-277-7574-FAX-712-252-7360, Email: dalane@midamerican.com.

MidAmerican Energy

Company

Electric Underground Easement

The undersigned owner (s), _____ in consideration of \$1.00, and other valuable consideration; receipt of which is hereby acknowledged, hereby grant (s) to MidAmerican Energy Company, an Iowa corporation, its successors and assigns, a perpetual right-of-way easement, for the purpose of constructing, reconstructing, operating, maintaining and removing underground wires and cables for the transmission and distribution of electric energy and for communication and electrical controls, including the necessary appurtenances under and on the surface of the ground, together with the right of ingress and egress and the right to clear and keep clear from the property within the easement any buildings, plantings or other obstructions as may be necessary for the purposes for which this easement is granted, in, under, across and along the real estate located in _____, _____ County, State as follows:

PROPERTY DESCRIPTION:

EASEMENT DESCRIPTION:

No building shall be constructed and/or changes shall be made in ground elevation by the grantor within the easement area without written permission from the Company indicating that said construction and/or ground elevation changes will not interfere with Company's rights to operate and maintain its facilities.

Damages to property, real or personal of the undersigned, their successors and assigns, by the Company while constructing or maintaining the lines shall be paid by the Company to the party damaged.

Council Communication

Department: Legal	Ordinance No.	
Case/Project No.	Resolution No.	<u>08-298</u>
Applicant	Date:	<u>Sept. 22, 2008</u>
SUBJECT/TITLE		
A resolution authorizing the Mayor to execute an amendment to the Lease Agreement with the American Hockey Group, LLC.		
BACKGROUND		
We are currently in the fourth year of a ten-year lease with the Lancer organization. The terms of this lease have become unworkable for both parties and it is proposed that we amend the current lease so that the lease will terminate at the end of this season. This amendment sets out a time frame in which the parties hope to negotiate a lease agreement for future seasons.		
Recommendation		
It is my recommendation that this resolution be approved.		

Richard Wade

Department Head Signature

Mayor Signature

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RESOLUTION NO. 08-298

A RESOLUTION APPROVING THE FIRST AMENDMENT TO THE ARENA LEASE BETWEEN THE CITY OF COUNCIL BLUFFS AND THE AMERICAN HOCKEY GROUP, LLC.

WHEREAS, the City and the American Hockey Group, LLC, entered into an Arena Lease Agreement in July of 2004; and

WHEREAS, at this time, both parties desire to amend the Lease Agreement.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That it is in the best interest of the City to enter into the document entitled "First Amendment to Arena Lease Agreement", a copy of which is hereby attached to this resolution;

AND BE IT FURTHER RESOLVED

That the Mayor is hereby authorized and directed to execute said First Amendment to Arena Lease Agreement.

ADOPTED
AND
APPROVED Sept. 22, 2008

Thomas P. Hanafan, Mayor

ATTEST: _____
Judith Ridgeley, City Clerk

FIRST AMENDMENT TO ARENA LEASE AGREEMENT

THIS FIRST AMENDMENT TO ARENA LEASE AGREEMENT is made this ____ day of September, 2008, by and between the CITY OF COUNCIL BLUFFS, IOWA, an Iowa municipal corporation ("Lessor") and American Hockey Group, LLC, a Minnesota limited liability company ("Lessee).

RECITALS

WHEREAS, Lessor owns and operates an arena and convention center ("Arena") with the City of Council Bluffs, Iowa, which is used for public purposes and gatherings, including, but not limited to, the exhibition of sports contests such as ice hockey, and entertainment and educational events;

WHEREAS, Lessee owns and operates an ice hockey team under the name "Lancers" which is a member of the United States Hockey League;

WHEREAS, Lessor and Lessee entered into an Arena Lease Agreement in July of 2004 (as hereby amended, the "Lease Agreement"), for the use of the Arena; and

WHEREAS, Lessor and Lessee have differing interpretations of certain provisions of the Lease Agreement and have had ongoing disputes regarding same, and desire to reconcile such disputes; and

WHEREAS, Lessor and Lessee desire to amend the Lease Agreement in order to allow Lessor and Lessee to negotiate a new lease agreement;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties mutually agree as follows:

AGREEMENT

1. Term. Section 3(a) of the Lease Agreement is hereby deleted in its entirety and amended to read as follows: "*The term of this Agreement shall commence on July __, 2004 and shall terminate on May 31, 2009.*"
2. Option Term. Section 3(b) & (d) of the Lease Agreement are hereby deleted in their entirety. Further, all other references in the Lease Agreement to "Renewal Terms" and Lessee's option to renew the Lease Agreement are hereby deleted.
3. New Lease. Lessor and Lessee shall, in good faith, attempt to negotiate the terms of a new lease agreement ("New Lease") for the Arena to commence on June 1, 2009. If Lessor and Lessee fail to agree to the terms of the New Lease by or before November 15, 2008, the parties shall have no obligation to continue negotiating with each other.

4. Lessee's Release. Lessee hereby releases and forever discharges Lessor from any and all liabilities, losses, damages, expenses, charges, causes of action, claims and other obligations of any other kind or nature, including attorneys' fees and all other expenses of litigation and defense, in law or in equity, direct or indirect, known or unknown, fixed or contingent ("Claims"), which have arisen out of or relate to the Lease Agreement, and acknowledge that as of May 31, 2009, the parties hereto will have no further obligations to each other under the Lease Agreement.
5. Lessor's Release. Lessor hereby releases and forever discharges Lessee from any and all liabilities, losses, damages, expenses, charges, causes of action, claims and other obligations of any other kind or nature, including attorneys' fees and all other expenses of litigation and defense, in law or in equity, direct or indirect, known or unknown, fixed or contingent, which have arisen out of or relate to the Lease Agreement, and acknowledge that as of May 31, 2009, the parties hereto will have no further obligations to each other under the Lease Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Arena Lease Agreement the day and year first above written.

LESSEE:

LESSOR:

AMERICAN HOCKEY GROUP, LLC

CITY OF COUNCIL BLUFFS, IOWA

By: _____
Title: _____

By: _____
Title: _____

Dated: _____

Dated: _____